

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

CHERYL COLEMAN

v.

CARRINGTON MORTGAGE SERVICES
LLC, ET AL.

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Civil Action No. 4:19-CV-231

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(Judge Mazzant/Judge Nowak)

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MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On July 27, 2020, the report of the Magistrate Judge (Dkt. #49) was entered containing proposed findings of fact and recommendations that Defendant Carrington Mortgage Services LLC's Second Motion to Dismiss (Dkt. #43) be granted in part and denied in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that Defendant Carrington Mortgage Services LLC's Second Motion to Dismiss (Dkt. #43) is hereby **GRANTED IN PART** and **DENIED IN PART** as set forth herein. Specifically, Plaintiff's claims for defamation, FMLA retaliation, and negligent infliction of emotional distress are hereby **DISMISSED WITH PREJUDICE** for failure to state a claim under Rule 12(b)(6). As to the remaining bases of Plaintiff's claims, Defendant's Motion to Dismiss (Dkt. #43) is hereby **DENIED**. To date, Plaintiff has failed to properly serve Defendant. Plaintiff shall be given one final opportunity to effectuate service on Defendant. Plaintiff shall have thirty (30) days from the date of this Memorandum Adopting with which to

effectuate service of the Amended Complaint on Defendant. If service is not effectuated within that time frame, Plaintiff's remaining claims may be dismissed without prejudice for failure to serve.

IT IS SO ORDERED.

SIGNED this 13th day of August, 2020.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE